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4 UNITED STATES DISTRICT COURT
5 NORTHERN DISTRICT OF CALIFORNIA
6

7 **CIARA NEWTON,**

8 Plaintiff,

9 vs.
10

11 **EQUILON ENTERPRISES, LLC DBA SHELL OIL**
12 **PRODUCTS US,**

13 Defendant.
14

Case No.: 17-cv-3961-YGR

**ORDER TERMINATING DISCOVERY DISPUTE
RELATED TO PLAINTIFF'S EXPERT REPORT
WITHOUT PREJUDICE**

DKT. No. 124

15 The Court is in receipt of defendant's Equilon Enterprises, LLC's discovery dispute and
16 plaintiff Ciara Newton's response thereto. (Dkt. No. 124.) Defendant's request is denied for failure
17 to comply with ¶ 8.b. of this Court's Standing Order in Civil Cases which requires that in a "joint
18 letter brief, counsel must attest that, prior to filing the request for relief, counsel met and conferred *in*
19 *person*" (Emphasis in original.) No such attestation was provided nor does the letter provide
20 any adequate basis for excusing the same.

21 The conduct of which defendant complains occurred on and before August 23, 2018. The
22 parties personally appeared before the Court on August 29, 2018, and these issues were not raised.
23 Certainly, the parties could have met personally then, at a minimum. The Court is not persuaded by
24 defendant's claim that "[n]o reasonable prospect of informal resolution exists" (Dkt. No. 124 at p.
25 4), as reasonable counsel frequently agree to modest extensions of deadlines to accommodate
26 discovery issues. Having failed to allow plaintiff anywhere close to an equal measure of space to
27 explain her perspective, the Court must view defendant's version of events with measured
28 skepticism. The Court views the most recent letter as yet another failure by counsel to decrease the
acrimony and to work professionally to ensure that their respective discovery obligations are met,
and comply with the Court's Orders. To run immediately back to the Court after having suffered

1 adverse rulings and complain about issues which could have been resolved sooner reflects “tit-for-
2 tat” conduct, and the Court will not waste additional judicial resources on the topic.


3 That said, the issue has been raised prior to the expert discovery cutoff. The parties are
4 **ORDERED** to meet and confer and resolve the issues. The Court will entertain a proposal for a
5 narrowly-tailored extension of time. Should it be necessary, any further briefing on the topic shall
6 include each party’s last proposal to resolve the issue.

7 Given the parties’ history, should the Court be required to resolve the issue itself, it will
8 consider appropriate monetary or evidentiary sanctions. It should be obvious that depositions cannot
9 be fully completed without production of all materials in advance, and that any post-deposition
10 revision to a report should not be done in such a manner as to confuse the record. It should also be
11 obvious that each party should be afforded approximately equal space to explain a position in a
12 discovery dispute, and that hyperbole in letter briefs is not persuasive, particularly in an environment
13 where the complaining party does not come to the Court with clean hands itself.

14 This terminates Docket No. 124 without prejudice.

15 **IT IS SO ORDERED.**

16 Date: August 30, 2018


YVONNE GONZALEZ ROGERS
UNITED STATES DISTRICT JUDGE